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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/611,877	07/07/2000	Pawan Goyal	4461	7399
758	7590	06/20/2006	EXAMINER	
FENWICK & WEST LLP SILICON VALLEY CENTER 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041			CHANG, SUNRAY	
			ART UNIT	PAPER NUMBER
			2121	

DATE MAILED: 06/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/611,877

Applicant(s)

GOYAL ET AL.

Examiner

Sunray Chang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23, 25 and 26 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-23, 25 and 26 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 50509, 50627, 60117.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

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DETAILED ACTION

1. This office action is in responsive to the paper filed on April 7th, 2006.

Claims 1 – 23, 25 and 26 are presented for examination.

Claims 1 – 23, 25 and 26 are rejected.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on May 9th, 2005, June 27th, 2005, January 17th, 2006 and further new submitted on June 5th, 2006. The submissions are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. **Claims 1 – 23, 25 and 26 are rejected on the ground of nonstatutory obviousness-type double patenting** as being unpatentable over claims 1 – 17, further in claims 37 – 53 and 54 – 64 in U.S. Patent No. 6,529,985. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Deianov et al. (U.S. Patent No. 6,529,985), with the same Assignee “Ensim Corporation, Sunnyvale, CA”, discloses each and every limitations of current application. For example,

In claims 1, 11, 18, 23, 25 – 26,

Deianov et al. discloses

- “a computer operating system for associating an identifier with a plurality of processes” as “a computer system for selectively intercepting system calls made to a multitasking operating” [Col. 13, Lines 13 – 15]. The term, “associating an identifier with processes”, can be read as “storing identifications of the processes”, based on descriptions in claim 4 “associating the first process with the identifier comprises storing an entry in a data structure, the entry comprising the identifier and a process identification number of the first process”, which disclosed in claim 1 of Deianov et al. “determining whether a process that called the system call is a selected process” [Col. 13, Lines 25 – 27]
- Starting a first process; [loading an interception module into the operating system, Col. 13, Lines 16]
- Associating the first process with the identifier; [replacing pointers to system calls to be intercepted with pointers to the interception module, Col. 13, Lines 17 – 18]

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- Creating, from the first process, a second process; [such that calling one of the system calls cause the interception module to execute, Col. 13, Lines 18 – 20]
- Associating the second process with the identifier; [selecting at least one process to intercept system calls, Col. 13, Line 21]
- Associating a third process with the identifier, wherein the third process is not a descendent of the first process; [loading a system call wrapper into the process address space of at least one selected process, Col. 13, Lines 22 – 23]
- Creating, from the third process, a forth process; [upon execution of the interception module in response to a calling of one of the system calls, Col. 13, Lines 24 – 25] and
- Associating the fourth process with the identifier. [determining whether a process that called the system call is a selected process, Col. 13, Lines 25 – 27]

Deianov et al. further discloses, as claimed in dependent claims, initialization process [loading an interception module into the operating system, claim 1]; storing an identifier and a process identification number in a data structure; [storing an indicator of an association between a loaded system call wrapper and a selected process, Claim 7] intercepting a system call, made by the first process, that creates a process; [calling one of the system calls cause the interception module to execute, Claim 1]

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Independent claims 1 – 23, 25 and 26 are further rejected** under 35 U.S.C. 102(b) as being anticipated by David B. Loader (U.S. Patent No. 5,566,334, and referred to as **Loader** hereinafter).

Regarding independent claims 1 – 23, 25 and 26, Loader teaches,

- Starting a first process; [SUPERVISORY PROGRAM Installation, Col. 3, Lines 16; see further Col. 3, Lines 16 – 29]
- Associating the first process with the identifier; [information concerning which specific types of interrupt events would be processed by any given SUPERVISOR PROGRAM, and which types would be ignored thereby, Col. 3, Lines 26 – 29]
- Creating, from the first process, a second process; [calling of INTERRUPT EXECUTION Routine, Col. 4, Line 32; see further Col. 4, Lines 33 – 62]
- Associating the second process with the identifier; [the conforming of computer's environment to the state represented by MEMORY MODEL, Col. 4, Lines 42 – 43]
- Associating a third process with the identifier, wherein the third process is not a descendent of the first process; [SUBSTITUTE IH Installation Routine, Col. 3, Line 30; copies the address of the normal IH routine for future use, Col. 3, Lines 37 – 39]
- Creating, from the third process, a forth process; [whenever the SUBSTITUTE IH routine is called, a ENVIRONMENT MODELLER routine is called in turn, Col. 3, Lines 61 – 64] and

- Associating the fourth process with the identifier. [write out environment-status information to the MEMORY MODEL, Col. 3, Lines 65 – 66]

Response to Amendment

IDS

5. Attorney argues that the examiner did not consider and sign the PTO-1449 forms and returning the forms back to the applicants. The information disclosure statements (IDS) submitted on May 9th, 2005, June 27th, 2005, January 17th, 2006 and further new information disclosure statement submitted on June 5th, 2006 have been considered, initialed and signed, and would be returned to the attorney with current office action.

Claim Rejections - 35 USC § 102&103

6. Applicants amend the claims to be “a method in a computer operating system” which changes the application been classified to a totally different subject matter, “a method in a computer system”, new ground of rejections has been cited and Double Patenting issues have been raised by the examiner.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunray Chang whose telephone number is (571) 272-3682. The examiner can normally be reached on M-F 7:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on (571) 272-3687. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-746-3506.



Anthony Knight
Supervisory Primary Examiner
Group Art Unit 2121
Technology Center 2100
U.S. Patent and Trademark Office

June 15, 2006